

REMARKS

Claims 1-45 are pending in the present application and claims 1, 8, 11, 19, 23, 31, 38, 41, and 45 have been amended hereby.

Reconsideration is respectfully requested of the Examiner's objection to the drawings as allegedly failing to show every feature of the invention specified in the claims. The Examiner contends that the operating unit and the data storage unit of claims 8 and 38 are not shown. Applicant respectfully disagrees.

One nonlimiting example of an operating unit is the keyboard 33a shown in Figure 3 and described at page 22 of the present invention. A user enters primary information using the keyboard 33a and the control unit 33 generates indicator data based on the primary information. Claims 8 and 38 are amended herein to clarify this feature. One nonlimiting example of a data storage unit is hard disk array 41 also shown in Figure 3 and described at page 23 of the present application.

Accordingly, it is respectfully submitted that the drawings show every feature of the invention specified in the claims.

Reconsideration is respectfully requested of the Examiner's rejection of claims 11-22 and 31-40 under 35 U.S.C. 112, first

paragraph, as allegedly containing subject matter which was not described in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s) at the time the application was filed, had possession of the claimed invention. The Examiner contends that the specification, as originally filed does not provide support for the invention as now claimed. Specifically the Examiner contends that the specification fails to support " the amount of payment for a user is determined according to the data indicative of user identification" in lines 16-18 of claim 11. The Examiner further contends that the specification does not support similar claim language in claims 19 and 31.

In the present application, the amount of payment due is determined based on the data indicative of the speed for recording while the specific user from whom this amount is due is determined based on the user identification. Independent claims 11, 19, 23, 31 and 41 have been amended herein in order to clarify this feature.

Accordingly, it is respectfully submitted that claim 11, and the claims depending therefrom, contain subject matter which was described in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application

was filed, had possession of the claimed invention.

Reconsideration is respectfully requested of the Examiner's rejection of claims 11-18 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as his invention. Applicant has carefully reviewed the Examiner's comments and has amended claim 11 with the Examiner's comments in mind.

Accordingly, it is respectfully submitted that amended claim 11, and the claims depending therefrom, particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Reconsideration is respectfully requested of the rejection of claims 1-10, 19-22 and 31-40 under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent 5,481,411 to Nakatani and European Patent Application EP 0 309 298 to Ball et al.

Nakatani, as understood by Applicant, relates to a high-speed dubbing device for producing magnetic tape such as video, audio or computer soft tapes. The dubbing device includes master tape playback devices for synchronously playing back two divided master signals obtained by time-divisionally dividing an original master signal having an original data sequence. A double-speed recording

signal is produced by a double-speed recording signal producing device for time compressing the two divided master signals to $\frac{1}{2}$, to obtain a double-speed recording signal while restoring the original data sequence in the double-speed recording signal. A recording device records the double-speed recording signal on a slave tape running at a speed twice the nominal playback speed of the slave tape. (Abstract)

Ball et al., as understood by Applicant, relates to a system allowing a customer to select various randomly accessed musical pieces to be copied at a rapid speed onto a tape for immediate purchase and that automatically forwards appropriate royalty payments to the artist involved. The available selections are stored and edited on a video tape using an audio-to-video digital converter and are transferred to video disk to form a library. Sections are retrieved for duplication onto cassette tape using a video-to-audio digital converter. Details of each use of the apparatus are coded onto the medium receiving the copied selections. (Abstract)

A feature of the present invention is that a control unit generates data for imposing payment for recording data, referred to as basic data, from a first recording medium to a second recording

medium from data indicating a user identity and data indicating a speed of the recording. A payment imposing device receives the basic data for imposing payment from the control unit and determines an amount of payment according to the speed of recording and imposes payment on a specific user identified according to the data identifying the user. When data indicating the proper completion of imposing payment which verifies an electronic transfer of funds from an account of the specific user, for example a bank account, is received by the controller, a record/playback unit starts recording the data from the first recording medium onto the second recording medium. Thus, a recording is made only after payment is imposed and payment is verified. In this manner, copies of the first recording medium can be made, while at the same time ensuring payment of royalty fees to artists. (Page 11, line 3 to page 12, line 3)

Ball et al. discloses royalty coding and accounting means and maintaining records of the copies made by a recording apparatus. Records are maintained for auditing and payment of royalties by the owner or licensee of the apparatus. Ball et al. also provides features for assisting in the prevention of illegal copying. Information relevant to the payment of royalties is encoded onto

video frames of coded audio information, including, for example, the title, name of composer, lyricist, recording company and related copyright information of the recording and directives as to royalties are encoded on the video frame along with the audio information. Information regarding the identity of the machine, date, time and the customer maybe encoded periodically to the dispensable tape. The royalty information and identifying information may also be printed and retained as a hard copy. (Ball et al., Page 3, lines 5-25)

Ball et al., however, fails to show or suggest a record/playback apparatus including a control unit for starting recording of data read out from a first recording medium onto a second recording medium when data indicating proper completion of imposing payment which verifies an electronic transfer of funds from an account of a specific user is received by the control unit. This feature is substantially recited in each of the independent claims 1, 11, 19, 23, 31, 41 and 45 of the present application.

The Examiner contends that it would have been obvious to modify Nakatani to adopt the royalty encoding and accounting means of Ball et al. to ensure calculation and making of appropriate royalty payments. Applicant respectfully disagrees.

The apparatus of Ball et al. keeps records regarding copying of data and records copyright data and identification data on recordings made by the apparatus so that unauthorized copies can be tracked. (Page 36, line 15-20) While Ball et al. may allow for direct payment of royalties by including a credit card reader which allows online credit card verification and instant identification information, Ball et al. fails to show or suggest starting recording only after the control unit has received data indicative of proper completion of imposing payment, thereby verifying an electronic transfer of funds from an account of the specific user for the recording.

The Examiner contends that the process of using a credit card requires approval of an issuer of an amount of payment to a merchant and only after that approval are goods given to the customer and, thus, it would have been common sense to start recording only after the control unit receives data indicative of proper completion of imposing payment for the recording.

Ball et al., however, does not teach or suggest the use of data indicative of proper completion of imposing payment verifying an electronic transfer of funds from an account of the specified user as in the present invention. Approval of the issuer of a

credit card is approval of an extension of credit to the user. In the present invention, the data indicative of proper completion of imposing of payment verifies an electronic transfer of funds from the user to the artist or to an account of the artist. The payment is actually made and completed.

Furthermore, there is no need to provide for information to track illegal copies of data where no copy is made unless proper payment is imposed. Ball et al., thus, teaches away from including a feature of copying data from a first recording device onto a second recording device when information indication proper completion of imposing payment verifying an electronic transfer of funds from an account of the user is received.

Further, Ball et al. fails to show or suggest a recording apparatus including a payment imposing device which determines an amount of payment according to the speed for recording data. Ball et al. discloses recording various royalty information including the title, name of composer, lyricist, recording company and related copyright information of a recording, however, Ball et al. fails to show or suggest determining a payment amount according to a speed for recording.

While the Examiner contends that it would be common sense to

employ the speed of recording to determine a payment amount, there is no teaching or suggestion in Ball et al. or in the art as a whole to make such a combination. In fact, Ball et al. suggests providing various recording speeds, however, does not suggest varying payment based on speed of recording. In Ball et al., the same steps for protecting copyright are performed regardless of the speed for recording. (Page 4, lines 2-6)

The Examiner contends that it is common practice in the business world to charge different rates for services based on various speeds such as an additional charge for speed dialing in a telephone system and different charges for express service in transportation, photo developing and package delivery. The Examiner, however, fails to provide any reference in the present art, that is, the data recording business, which shows or suggests determining an amount of payment based on speed of recording. Therefore, it is respectfully submitted that there is no suggestion in the either the cited art or in the data recording art as a whole to determine an amount of payment based on the speed of recording and therefore it would not have been obvious to include such a feature in either Nakatani or Ball et al.

Accordingly, it is respectfully submitted that claims 1, 19

and 31, and the claims depending therefrom, are patentable over the cited art for at least the reasons identified above.

Reconsideration is respectfully requested of the rejection of claims 11-18, 23-30 and 41-45 under 35 U.S.C. 103(a) as being unpatentable over Ball et al.

Independent claims 11, 23, and 41 relate to record/playback methods substantially utilized by the record/playback apparatuses of claims 1, 19 and 31 respectively. Claim 45 relates to a dubbing apparatus substantially including the patentable features of the record playback/apparatuses of claims 1, 19 and 31.

The Examiner concedes that Ball et al. fails to disclose use of data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium to generate the basic data, but, as noted above, contends that it is well known in the art to employ any relevant data to impose payment to increase profit in business and that it would have been common sense to employ data indicative of a speed for recording to generate basic data. Applicant respectfully disagrees.

As noted above, Ball et al. fails to show or suggest determining a payment amount according to the speed for recording data from a first recording medium onto a second recording medium.

Various royalty data is recorded onto the recording medium to aid in ensuring payment of royalties in Ball et al., however, Ball et al. fails to show or suggest determining a payment amount according to the speed for recording. As noted above there is no teaching or suggestion in Ball et al. or in the art as a whole to include such a feature.

Further, as noted above, Ball et al. fails to show or suggest directing an apparatus to start recording data from a first recording medium onto a second recording medium after receiving data indicative of proper completion of imposing payment verifying an electronic transfer of funds from an account of a specific user. While Ball et al. may allow for direct payment of royalties by including a credit card reader which allows online credit card verification and instant identification information, Ball et al. fails to show or suggest starting recording after receiving data indicating proper payment which verifies an electronic transfer of funds from an account of the user to pay the amount of payment. In fact, Ball et al. teaches away from such a feature as described above.

Accordingly, it is respectfully submitted that claims 11, 23, 41 and 45, and the claims depending therefrom, are patentable over

the cited art for at least the reasons identified above.

Entry of this amendment is earnestly solicited, and it is respectfully submitted that the amendments made to the claims hereby raise no new issues requiring further consideration and/or search, because all of the features of this invention have clearly been considered by the examiner in the prosecution of this application, and because the present amendments add no new structure not previously searched for and serve only to further define and emphasize the novel features of this invention.

The Office is hereby authorized to charge any additional fees which may be required in connection with this Amendment and to credit any overpayment to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,
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MARKED COPY OF THE CLAIMS INDICATING THE CHANGES MADE

Claims 1, 8, 11, 19, 23, 31, 38, 41 and 45 have been amended as follows.

--1. (Thrice Amended) A record/playback apparatus comprising:

a record/playback unit for reading out data from a first recording medium and recording the data onto a second recording medium;

a control unit for generating basic data for imposing payment from at least data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium and transmitting the basic data, and when receiving data indicative of proper completion of imposing payment, directing the record/playback unit in response to the received data indicative of the proper completion of imposing payment to start the recording of the data read out from the first recording medium onto the second

recording medium; and

a payment imposing unit for determining, when receiving the basic data from the control unit [determining], an amount of payment according to the speed for recording the data read out from the first recording medium and imposing the amount of payment for a user specified by the user identification and for transmitting to the control unit the data indicative of proper completion of imposing payment thereby verifying an electronic transfer of funds from an account of the user.

--8. (Twice Amended) The record/playback apparatus according to claim 1, further comprising:

an operating unit connected to the control unit; and

a data storage unit where a plurality of data is stored, wherein the control unit reads out corresponding data from the data storage unit in response to indicator data supplied in response to an information input from the operating unit and directs the record/playback unit to record the data read out from the data storage unit onto the first recording medium.

--11. (Thrice Amended) A record/playback method of reading

out data from a first recording medium and recording the data onto a second recording medium with the use of an apparatus capable of reading out the data from the first recording medium and recording the data onto the second recording medium, the method comprising the steps of:

generating basic data for imposing payment from data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium;

transmitting the basic data from the apparatus to a payment imposing unit;

imposing payment according to the basic data received, with an amount of payment determined according to the speed for recording the data read out from the first recording medium onto the second recording medium and [a] where an amount of payment [amount] for a specific user is determined according to the data indicative of user identification and for generating data indicative of proper completion of imposing payment thereby verifying an electronic transfer of funds from an account of the specific user in the payment imposing unit;

transmitting the data indicative of the proper completion of

imposing payment from the payment imposing unit to the apparatus;
and

directing the apparatus to start recording the data read out from the first recording medium onto the second recording medium in response to the data indicative of the proper completion of imposing payment.

--19. (Thrice Amended) A record/playback apparatus comprising:

a record/playback unit for reading out data from a first recording medium and recording the data onto a second recording medium; and

a control unit for generating basic data for imposing payment from at least data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium and transmitting the basic data, and when receiving data indicative of proper completion of imposing payment, with an amount of payment determined according to the speed for recording the data read out from the first recording medium onto the second recording medium and the amount of payment for a specific user is determined

according to the data indicating user identification, for directing the record/playback unit in response to the received data indicative of the proper completion of imposing payment thereby verifying an electronic transfer of funds from an account of the specific user to start the recording of the data read out from the first recording medium onto the second recording medium.

--23. (Thrice Amended) A record/playback method comprising the steps of:

reading out corresponding data from a data storage unit where a plurality of data is stored and recording the data onto a second recording medium in response to indicator data received from an operating unit in an apparatus for reading out data from a first recording medium and recording the data onto a second recording medium;

generating basic data for imposing payment from data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium;

transmitting the basic data from the apparatus to a payment imposing unit;

imposing payment according to the basic data received, wherein an amount of payment is determined by the speed for recording the data read out from the first recording medium onto the second recording medium with the amount of payment imposed on a specific user determined according to the data indicative of user identification and generating data indicative of proper completion of imposing payment thereby verifying an electronic transfer of funds from an account of the specific user in the payment imposing unit;

transmitting the data indicative of the proper completion of imposing payment from the payment imposing unit to the apparatus; and

directing the apparatus to start recording the data read out from the first recording medium onto the second recording medium in response to the data indicative of the proper completion of imposing payment.

--31. (Thrice Amended) A record/playback apparatus comprising:

a first unit for reading out data from a first recording medium;

a second unit for recording the data onto a second recording medium;

a control unit for generating basic data for imposing payment from at least data indicative of a user identification and data indicative of a speed for recording the data read out from the first unit onto the second recording medium in the second unit, transmitting the basic data, and when receiving data indicative of proper completion of imposing payment, directing the first and second units in response to the received data to start the recording of the data read out from the first unit onto the second recording medium in the second unit; and

a payment imposing unit for receiving the basic data from the control unit, for imposing payment according to the basic data received, wherein an amount of payment is determined according to the speed for recording the data read out from the first recording medium onto the second recording medium and the amount of payment imposed for a specific user is determined according to the information indicative of user identification and for transmitting the data indicative of the proper completion of imposing the payment, thereby verifying an electronic transfer of funds from an account of the specific user to the control unit.

--38. (Twice Amended) The record/playback apparatus according to claim 31, further comprising:

an operating unit connected to the control unit; and

a data storage unit where a plurality of data is stored, wherein the control unit reads out corresponding data from the data storage unit in response to indicator data supplied in response to an information input from the operating unit and directs the read/playback unit to record the data read out from the data storage unit onto the first recording medium.

--41. (Thrice Amended) A record/playback method of reading out data from a first recording medium and recording the data onto a second recording medium with the use of an apparatus for reading out the data from the first recording medium and recording it into the second recording medium, the method comprising the steps of:

generating basic data for imposing payment from data indicative of a user identification and data indicative of a speed for recording the data read out from the first recording medium onto the second recording medium;

transmitting the basic data from the apparatus to a payment imposing unit;

canceling imposing payment and generating key data when the data indicative of a speed in the basic data received is indicative of reading out the data from the first recording medium and recording it into the second recording medium at a predetermined speed;

imposing payment and generating key data when the data indicative of a speed is indicative of reading out the data from the first recording medium and recording it into the second recording medium at a speed faster than the predetermined speed, wherein

an amount of payment is determined according to the speed for recording the data read out from the first recording medium onto the second recording medium and the amount of payment for a specific user is determined according to the data indicative of user identification;

transmitting data indicative of proper completion of imposing payment, thereby verifying an electronic transfer of funds from an account of the specific user from the payment imposing unit to the apparatus; and

directing the apparatus to start recording the data read out from the first recording medium onto the second recording medium in response to the data indicative of the proper completion of imposing payment.

--45. (Amended) A dubbing apparatus comprising:

dubbing means for reading out data from a first recording medium and writing said read out data onto a second recording medium; and

control means for generating basic data for billing a user, said basic data includes a user identification and a dubbing speed,

wherein after proper completion of billing said user in which an electronic transfer of funds is made from a user account, said control means directs said dubbing means to start reading out data from said first recording medium and writing the read out data onto said second recording medium, with an amount of billing for said user determined based on said dubbing speed.--